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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,596	08/28/2003	James DeFrancesco	DLT-001DIV3	7930
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GOODWIN PROCTER LLP				
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BOSTON, MA 02109-2881				
EXAMINER				
CHANG, EDWARD				
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4143				
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12/19/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/650,596

Applicant(s)

DEFRANCESCO ET AL.

Examiner

Edward Chang

Art Unit

4143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)
Paper No(s)/Mail Date 06/20/07 (2 files), 07/22/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This action is in reply to the application filed on 28th of August 2003.
2. Claims 1-6 are currently pending and have been examined.

Information Disclosure Statement

3. Acknowledgement is hereby made of receipt of Information Disclosure Statement(s) filed by applicant on 20th of June 2007 (two files), and 22nd of July 2005.

4. Due to the excessively lengthy Information Disclosure Statement submitted by applicant on 20th of June 2007 (two files), the examiner has given only a cursory review of the listed references. In accordance with MPEP 609.04(a), applicant is encouraged to provide a concise explanation of why the information is being submitted and how it is understood to be relevant. Concise explanations (especially those which point out the relevant pages and lines) are helpful to the Office, particularly where documents are lengthy and complex and applicant is aware of a section that is highly relevant to patentability or where a large number of documents are submitted and applicant is aware that one or more are highly relevant to patentability. Applicant is required to comply with this statement for any non-English language documents. See 37 CFR § 1.56 Duty to Disclose Information Material to Patentability.

Claim Objections

5. Claim 4 is objected to because of the following informalities: Claim 5 states "*A method as in claim 1....*" Since claim 3 is a method, not claim 1, for this examination, the examiner will assume the applicant meant "*A method as in claim 3....*" Appropriate correction is required.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention does not fall into one of the statutory categories: process, machine, manufacture, composition of matter or an improvement thereof. Replacing the words *application program interface (API)* with "an application program interface (API) executable program tangibly embodied on a computer readable medium" is a suggestion for how to bring these claims into compliance with 35 U.S.C. 101 because "a computer-executable program tangibly embodied on a computer readable medium" is statutory subject matter.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Examiner's Note: The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

10. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dykstra et al. (hereinafter "Dykstra"); (US 5,611,052), in view of Levine et al. (hereinafter "Levine"); (US 6,233,566 B1).

Claim 1:

Dykstra shown discloses the following limitations:

- *means for receiving a credit application from at least one remote application input location;* (See at least column 4, Lines 12-35)
- *means for automatically and selectively forwarding and received credit application to said one or more funding sources by standardized facsimile service* (Fig. 2A, Step 120) *should said communication channel fail.* (See at least Fig. 1, Steps, 22, 24, 32) (Fig. 1 shows two different communication channels: (1) computer to computer bidirectional data channels (steps 22, and 24), and (2) computer to fax data channels (step 32), so it would have been obvious to one of ordinary skill to use the other communication channel if one fails.)

Dykstra does not disclose the following limitations, but Levine, however as shown, does:

- *means for monitoring the data flow of said communication channel; and* (See at least column 10, Lines 46+)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the Dykstra's system as taught by

Levine to monitor the data flow of said communication channel to efficiently maintain the system, preventing loss of data.

Claim 2:

The combination of Dykstra/Levine discloses the limitations as shown in the rejections above. Furthermore, Dykstra as shown, also discloses the following limitations:

- *means for receiving a funding decision from said one or more funding sources.*

(See at least Fig. 2A, Step 122)

Claim 3:

Dykstra shown discloses the following limitations:

- *receiving a credit application from at least one remote application input location;* (See at least column 4, Lines 12-35)
- *should said communication channel fail, automatically and selectively forwarding said received credit application to said one or more funding sources by standardized facsimile service* (Fig. 2A, Step 120); (See at least Fig. 1, Steps, 22, 24, 32) (Fig. 1 shows two different communication channels: (1) computer to computer bidirectional data channels (steps 22, and 24), and (2) computer to fax data channels (step 32), so it would have been obvious to one of ordinary skill to use the other communication channel if one fails.)

Dykstra does not disclose the following limitations, but Levine, however as shown, does:

- *monitoring the data flow of said communication channel;* (See at least column 10, Lines 46+)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the Dykstra's system as taught by Levine to monitor the data flow of said communication channel to efficiently maintain the system, preventing loss of data.

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Claim 4:

The combination of Dykstra/Levine discloses the limitations as shown in the rejections above. Furthermore, Dykstra as shown, also discloses the following limitations:

- *step of receiving a funding decision from said one or more funding sources.* (See at least Fig. 2A, Step 122)

Claim 5:

Dykstra shown discloses the following limitations:

- *receive a credit application from at least one remote application input location;* (See at least column 4, Lines 12-35)
- *automatically and selectively forwarding and received credit application to said one or more funding sources by standardized facsimile service (Fig. 2A, Step 120) should said communication channel fail.* (See at least Fig. 1, Steps, 22, 24, 32) (Fig. 1 shows two different communication channels: **(1)** computer to computer bidirectional data channels (steps 22, and 24), and **(2)** computer to fax data channels (step 32), so it would have been obvious to one of ordinary skill to use the other communication channel if one fails.)

Dykstra does not disclose the following limitations, but Levine, however as shown, does:

- *monitor the data flow of said communication channel; and* (See at least column 10, Lines 46+)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the Dykstra's system as taught by Levine to monitor the data flow of said communication channel to efficiently maintain the system, preventing loss of data.

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Claim 6:

The combination of Dykstra/Levine discloses the limitations as shown in the rejections above. Furthermore, Dykstra as shown, also discloses the following limitations:

- *receive a funding decision from said one or more funding sources.* (See at least Fig. 2A, Step 122)

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Conclusion

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **James A. Reagan** whose telephone number is **571.272.6710**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **ANDREW J. FISCHER** can be reached at **571.272.6779**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to **571-273-8300**.

Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**:

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Alexandria, VA 22314.

3 December 2007

/Edward Chang/Examiner, Art Unit 4143

/James A. Reagan/Supervisory Patent Examiner, Art Unit 4143